

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ADJUSTACAM LLC
Plaintiff

v.

AMAZON.COM, INC., *et al.*
Defendants

Civil Action No. 6:10-cv-329-LED

JURY TRIAL DEMANDED

**DEFENDANT CDW LLC'S NOTICE OF JOINDER TO MOTION FOR PARTIAL
SUMMARY JUDGMENT THAT ADJUSTACAM IS NOT ENTITLED TO
PRE-SUIT DAMAGES PURSUANT TO 35 U.S.C. § 287(a)**

Defendant CDW LLC¹ ("CDW") hereby joins the Motion for Partial Summary Judgment (Dkt. No. 473) filed in this action on August 1, 2011, by Auditek Corporation; Best Buy Co., Inc.; Best Buy Stores, LP; BestBuy.com, LLC; Baltic Latvian Universal Electronics, LLC d/b/a Blue Microphones, LLC; Blue Microphones, LLC; CompUSA.com, Inc.; Digital Innovations, LLC; Fry's Electronics, Inc.; Gear Head, LLC; Hewlett-Packard Company; J&R Electronics, Inc., d/b/a J&R; Kohl's Corporation d/b/a Kohl's; Kohl's Illinois, Inc.; Micro Electronics, Inc. d/b/a Micro Center; Office Depot, Inc.; Overstock.com, Inc.; Systemax, Inc. d/b/a CompUSA, Inc.; TigerDirect, Inc.; Sakar International, Inc.; and Target Corporation (collectively "the Moving Defendants").

All statements of fact, legal arguments and evidence contained in the Moving Defendants' Motion for Partial Summary Judgment ("the Motion") apply to CDW. As discussed in the Motion, Plaintiff AdjustaCam LLC ("AdjustaCam") is not entitled to pre-suit damages pursuant to 35 U.S.C. § 287(a) because AdjustaCam did not provide actual notice of alleged

¹ On December 31, 2009, "CDW Corporation" merged into CDWC LLC, an Illinois limited liability company, and the name of CDWC LLC was changed to "CDW LLC" as of that date. The party making this Notice of Joinder is CDW LLC.

infringement of U.S. Patent No. 5,855,343 (“the ‘343 Patent”) to the Moving Defendants prior to filing its Complaint initiating this action. Like the Moving Defendants, CDW never received any communication from AdjustaCam or any of its predecessors-in-interest regarding the ‘343 Patent or CDW’s alleged infringement of the ‘343 Patent by specific products prior to the commencement of this lawsuit.

Attached to this Notice as Exhibit 1 is a true and correct copy of the Declaration of Elizabeth Hiszczynski, Senior Paralegal, Legal Department at CDW, who declares that CDW has conducted a thorough search of its records and has not located any document that could be construed as notice from AdjustaCam or any of its predecessors-in-interest of alleged infringement of the ‘343 Patent. Because CDW possesses no evidence that AdjustaCam provided notice communicating a charge of alleged infringement of the ‘343 Patent prior to initiating this action, CDW joins in the Moving Defendants’ arguments that summary judgment should not be delayed to allow additional discovery.

FOR THESE REASONS, Defendant CDW LLC joins in the Moving Defendants’ Motion for Partial Summary Judgment and asks that this Court prohibit AdjustaCam from recovering any damages for the alleged infringement of the ‘343 Patent for the period before AdjustaCam filed its Complaint initiating this action.

DATED: September 9, 2011

Respectfully submitted,

/s/ Steven R. Daniels

Steven R. Daniels

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ATTORNEYS FOR DEFENDANT CDW LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served on September 9, 2011, with a copy of this Notice by the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail and/or first class mail on this same date.

/s/ Steven R. Daniels

Steven R. Daniels